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June 5, 2007

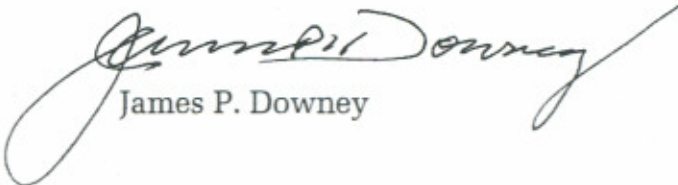
Ms. Melissa Dargis  
Fauquier County Community  
Development  
Administration and Planning Division  
10 Hotel Street, 3rd floor  
Warrenton, VA 20186

Re: Colonial Crossing Proffers

Dear Ms. Dargis:

Enclosed you will find the proffers now signed by Mr. Tharpe, dated June 4, 2007, for submittal to the Board of Supervisors in connection with the rezoning hearing on June 14, 2007. These proffers incorporate all responses to comments and issues affecting this rezoning case. Please submit these proffers to the Board of Supervisors.

Very truly yours,

  
James P. Downey

JPD:jch  
enclosure

cc: Mr. Rick Carr  
✓ Mr. Chester Stribling  
Mr. Donald Tharpe

COLONIAL CROSSING  
REZONING PROFFERS

Donald R. Tharpe Trust, by Donald R. Tharpe, Trustee, owner of the property and the Applicant in this rezoning application (hereinafter "The Applicant"), hereby proffers that in the event the property is rezoned by the Fauquier County Board of Supervisors (hereinafter referred to as the "COUNTY" or "BOARD") in case number REZN05-LE-014, to a R-4 district, as proffered herein (hereinafter "Proffers"), then the development of the property which shall be known as COLONIAL CROSSING shall be in conformance with these Proffers. Uses and densities shall be set forth in these Proffers, dated April 1, 2005, first revised December 9, 2005, and last revised October 26, 2006, which have been or are hereby approved by the Board of Supervisors, and also in substantial conformance with the Concept Development Plan dated November 14, 2005, as last revised January 26, 2007, as prepared by The Engineering Groupe, Inc. (the "Concept Development Plan" or CDP) and with the following conditions, pursuant to Section 15.2-2286 of the 1950 Code of Virginia, as amended, and the Zoning Ordinance of Fauquier County, Virginia. These Proffers include the dedication of real property and are thus subject to the conditions set forth in Virginia Code, Section 15.2-2298 B.

The Concept Development Plan dated November 14, 2005, most recent revised October 26, 2006, and stamped by Bruce A. Reese, P.E., as prepared by The Engineering Groupe, Inc. as referred to in these Proffers consists only of:

Sheet 1	Cover sheet (November 14, 2005), last revised 3/29/07
Sheet 2	Zoning Plat (November 14, 2005), last revised 3/29/07
Sheet 3	Environmental Features (November 14, 2005), last revised 3/29/07
Sheet 4	Conceptual Development Plan (November 14, 2005), last revised 3/29/07
Sheet 5	Transportation Improvement Plan (November 14, 2005), last revised 3/29/07
Sheet 6	Typical Sewage Pump Station Plan - Prepared by Whitman, Requardt and Associates - dated 04/29/04. This is a Fauquier County Water and Sanitation Authority (WSA) plan attached for information purposes only.

Where the Proffers and Concept Development Plan are not in agreement, the more specific wording of the Proffer Statement shall prevail. The Concept Development Plan and the above-identified exhibits are meant to be a general reference and are subject to minor modification for engineering, provided that the final engineering shall be in substantial conformance with the CDP and Proffers. The Applicant has filed a Special Exception to locate an above-ground utility structure (pump station(s)) in the project.

**I. LAND USE**

- A. The development of COLONIAL CROSSING shall be in accordance with the Proffers contained herein; and shall be in substantial conformance with the CDP.
- B. Dwelling units at COLONIAL CROSSING shall be Single Family Detached Units, as set forth on the CDP. The total number of dwelling units at build-out on COLONIAL CROSSING shall not exceed 95 dwelling units. Architecture of the development will be consistent with the vernacular of the area.
- C. Construction of the dwellings at Colonial Crossing will be phased over three years, with no more than 35 units built in any one year, with the computation of years to begin at date of site plan approval, provided that, after the second year, any unbuilt, unoccupied units may be delivered without regard to time phasing.

**II. RECREATION FACILITIES**

- A. The recreation facilities (Village Pocket Park (inclusive of trails and landscaping) and Neighborhood Village Green-Active Recreation Area (inclusive of trails, tot-lot, landscaping, and activity field)) shall be built concurrently with the dwelling units adjacent to the facilities. In no case, shall the 56<sup>th</sup> occupancy permit be issued prior to the construction of these two recreation facilities shown on the CDP. Open space areas and recreational facilities shall be constructed along with the overall site infrastructure and not simply bonded for future construction. All other recreation facilities, open space, landscaping

and open space elements including trails shall be constructed prior to the issuance of the 95<sup>th</sup> building permit for the project.

### **III. TRANSPORTATION IMPROVEMENTS**

#### **A. Off-Site Road Improvements**

The Applicant will construct the off-site road improvements which are depicted on Sheet 5 of the CDP. The details on Sheet 5 are conceptual only and the final engineering details of the improvements are to be approved by the County/VDOT. The proposed residential development shall be in substantial conformance with the Concept Development Plan ("CDP"), provided that the Applicant shall be permitted to make Plan modifications in consultation with the Director of Community Development, including roadway alignments.

1. Reconfigure and reconstruct the intersection of Old Marsh Road and Route 17 (including turning lanes) as shown on Sheet 5 of the CDP (proposed improvements to Route 17 and the East/West Connector\* - Details # 1 & 5). The entrance to COLONIAL CROSSING is to be known as the East/West Connector. The Applicant will construct the traffic signalization ("construct" in this context includes design, installation and maintenance until accepted by VDOT) at the intersection of Route 17 and the East/West Connector. The East/West Connector may also be referred to as Colonial Crossing Parkway. The actual name of the road will be determined at final plat time.
2. Applicant shall construct the traffic signalization at the intersection of Route 17 and Independence Avenue, and reconfigure the intersection at Route 17 and Independence Avenue to allow for southbound left-turn movements onto Route 17 from Independence Avenue. Left turn lanes on Route 17 shall be extended to handle the expected queue generated by the signal. These improvements are shown conceptually on Sheet 5 of the CDP (proposed improvements to Route 17 and Independence Avenue - Detail # 4).
3. If not otherwise constructed sooner, in accordance with Proffers previously accepted by the Board of Supervisors in conjunction with the Freedom Place Rezoning (#REZN05-LE-01), and/or at the direction of the County, the Applicant will construct the above transportation improvements within

twenty-four (24) months of the date of approval by VDOT and the County of the construction plans for the improvements referred to herein. Construction plans shall be submitted and reviewed concurrently with the construction plans for the first section of the subdivision.

4. The requirement for construction of all signals referenced above is subject to VDOT approval of a warrant analysis for each signal. In the event the signals should not meet the warrant requirement or should the traffic signals or any of the above improvements be constructed by others prior to the expiration of such trigger for improvement the Applicant agrees to contribute an amount equivalent to the bond estimate approved by Fauquier County or VDOT for the construction of the proposed signal.

B. On-Site Road Improvements

1. The Applicant shall dedicate sufficient land (110' wide) for the East/West connector known as the "East/West Connector" to be made into a four-lane road through the development, as shown on Sheet 4 of the CDP. From the East/West Connector's juncture with Route 17, the Applicant shall prepare a conceptual design for the four-lane roadway (to allow for future improvements by others) and shall final design and construct two lanes of said roadway in accordance with VDOT Urban Collection Geometric Standards and as depicted on Sheet 5 detail #2 of the CDP. The roadway shall be so located as to have the least possible impact on floodplain and wetlands, and in the event that the lot layout requires adjustment or deletion of lots in order to achieve this goal, such adjustments or deletion of lots shall be made. (The CDP shows the two lanes to be constructed located on the southern half of the 110' right-of-way.) In the event that the Colonial Crossing extension now shown on the CDP is not approved by the U.S. Army Corps of Engineers, Applicant agrees that it will relocate the roadway as necessary, northward of the location depicted on the CDP, so as to align with the extreme northeast corner of the service district. The commercial rezoning request for the 25-acre remainder of the property shall proffer that the applicant will prepare construction plans for a four-lane divided highway from Route 17 to the eastern corner of the service district.

2. The length of the parkway east of the interior community crossroad shall be dedicated at 110' wide at the final plat stage for future construction by others. Additionally, the final plat dedicating the 110' wide future road right-of-way shall contain an area reserved for said future road construction called "roadway extension corridor". This "roadway extension corridor" shall be available to the County or VDOT at no cost for construction purposes or for relocation of the 110' dedication depending upon final construction plans for the referenced road construction. The intent of the "roadway extension corridor" is to give the County and VDOT flexibility as to the actual location of said road when it is built in the future.
3. The Applicant will construct and dedicate to VDOT or the County, a series of sidewalks and trails as depicted on Sheet 4 of the CDP. The locations and types of such sidewalks and trails shall be as generally set forth on the CDP. Trails shall be constructed of asphalt and/or concrete. Trails identified as being 10' or wider shall be dedicated to the County or to VDOT. Interior trails shall be 6' wide and shall be owned and managed by the Homeowners Association. Wooden bridges or other appropriate structures, subject to VDOT approval, may be constructed where appropriate to cross drainageways or wetlands. The trail along the East/West Connector as well as the trail along the eastern edge of the site will be 10' wide.
4. The Applicant hereby agrees to dedicate to Fauquier County for public street purposes that certain 50-foot portion of the properly identified on the CDP as 50-foot R.O.W. to be dedicated" thereby providing alternatives for access to Old Marsh Road. The dedication shall occur at final plat for the adjacent section.
5. (Emergency Access). The emergency access easement adjacent to Independence Avenue will be dedicated if the School Board gives permission for use of Independence Avenue.
6. Construction of the East/West Connector shall conform to the following design criteria:
  - a. Right and left turn lanes will be provided at all Colonial Crossing intersections. Appropriate turn lanes for an ultimate 4 lane divided

roadway will be constructed with intermediate 2 lane road serving the development.

- b. Intersections will be finished to the curb returns at cross streets.
- c. The left side of Colonial Crossing will be built as a future raised median, and not as curb and gutter.
- d. Storm sewer will be built to its ultimate length.
- e. There will be no staging or storage of materials in the right of way other than that necessary to provide proper drainage.

#### **IV. PROVISION OF OTHER PUBLIC FACILITIES**

##### **A. School**

1. The Applicant shall make a monetary contribution to the Fauquier County Board of Supervisors in the amount of twenty one thousand four hundred twenty four dollars (\$21,424) per residential dwelling unit constructed on the property to be used for school facilities and services. Said contribution shall be made on a per unit basis, at the time a building permit is issued for each residential unit constructed on the property.
2. Applicant will construct a curb cut and 18' paved emergency access road from Independence Avenue northward to the loop road within the southern land bay concurrently with construction of the loop road in the southern land bay thereby providing for emergency vehicular as well as pedestrian access between the properties. Said construction shall be in accordance with a standard acceptable to the County. Locking bollards or other such measures as determined by the Director of Emergency Services at construction plan approval shall be employed to ensure against unauthorized vehicular use of this emergency connection.

##### **B. Parks & Recreation**

The Applicant shall make a monetary contribution to the Fauquier County Board of Supervisors in the amount of two thousand two hundred sixty dollars (\$2,260) per residential unit constructed on the Property to be used to fund capital improvements for Parks and Recreation. Said contribution shall be made

on a per unit basis at the time a building permit is issued for each residential unit constructed on the Property.

C. Libraries

The Applicant shall make a monetary contribution to the Fauquier County Board of Supervisors in the amount of seven hundred and seven dollars (\$707) per residential unit constructed on the Property to be used for library facilities and services. Said contribution shall be made, on a per unit basis, at the time a building permit is issued for each residential unit constructed on the Property.

D. Emergency Services

The Applicant shall make a monetary contribution to the Fauquier County Board of Supervisors in the amount of three thousand three dollars (\$3,003) per residential unit constructed on the Property to be used to fund Emergency facilities and services. Said contribution shall be made, on a per unit basis, at the time a building permit is issued for each residential unit constructed on the Property.

E. Sheriff

The Applicant shall make a monetary contribution to the Fauquier County Board of Supervisors in the amount of four hundred sixty eight dollars (\$468) per residential unit constructed on the Property to be used to fund facilities and services for the Sheriffs Department. Said contribution shall be made, on a per unit basis, at the time a building permit is issued for each residential unit constructed on the Property.

F. Environmental

The Applicant shall make a monetary contribution to the Fauquier County Board of Supervisors in the amount of six hundred forty-one dollars (\$641) per residential unit constructed on the Property to be used for environmental facilities and services (Landfill). Said contribution shall be made, on a per unit basis, at the

time a building permit is issued for each residential unit constructed on the Property.

G. Contribution Toward Bealeton Bypass and Fire and Rescue Services

Applicant agrees to contribute five thousand dollars (\$5,000) per unit toward construction of the Bealeton Bypass and Fire and Rescue Services, allocated \$4,500 per unit for the Bypass and \$500 per unit for the Fire and Rescue Services. The \$5,000 contributions are contingent upon approval of the road by VDOT within fifteen years.

H. Housing Coalition Contribution

At the time of building permit issuance for any individual unit, a contribution of \$1,000 per unit shall be made to the Fauquier Affordable Housing Coalition.

V. **WATER & SEWER**

A. The Applicant proffers that all Residential units constructed at COLONIAL CROSSING shall be served by public water and public sewer from the Fauquier County Water and Sanitation Authority (WSA) which shall be provided as set forth below:

1. Public sewer shall be provided by the Applicant to the project through an agreement with the WSA.
2. In such event as it become necessary for Applicant to construct a temporary or permanent pump station or above-ground water storage or pumping facility in order to provide public sanitation sewer or water service to the property, then the approval of this rezoning shall be deemed to meet the 15.2-2232 comprehensive plan requirements for these facilities.

B. The Applicant will construct water or sewer lines sized for its use and will upsize for use by others subject to the terms of Subdivision Ordinance Section 4-11 1) B) and the Fauquier County Water and Sanitation Authority Operating Code. The acquisition of any off-site easements will be accomplished in accord with the WSA master plan and WSA Rules and Regulations and the County policy contemplating the acquisition of utility easements.

- C. Applicant shall construct the pump station (as approved by SPEX06-LH-020) to have a similar visual impact as that shown on sheet 6 of the CDP. (The pump station will be sized sufficient to allow for future expansion to handle anticipated future flow.) The pump station will be designed and sized as required by the Authority and in accordance with the Water & Sewer Master Plan.
- D. Applicant will construct a water line loop as required by the Authority, to WSA standards to Liberty High School prior to the issuance of the 1<sup>st</sup> building permit.

**VI. ENVIRONMENTAL PROTECTION**

- A. Except for underground public utilities, and identified wetland disturbance specifically allowed by DEQ permit, all 100-year floodplains and wetlands shall be not be disturbed. Any permitted impacts shall be mitigated in accordance with local, State and Federal wetlands regulations.

**VII. OPEN SPACE RESERVATION AND/OR DEDICATION**

- A. The Colonial Crossing Homeowners Association documents may (at their sole discretion) provide for opportunities for Fauquier County residents and other organizations to utilize the recreational facilities, not dedicated to public use, at COLONIAL CROSSING.

**VIII. LANDSCAPE AND CONSERVATION**

- A. The Applicant reserves the right for utility crossings of the buffers and open space and shall have the right to locate underground utilities and extensions of underground utilities in said areas (including the water, sewer, storm sewer, phone, electric, gas and television cable).

**IX. MISCELLANEOUS PROVISIONS**


- A. In the event that monetary contributions contained in this Proffer Statement are paid to the Fauquier County Board of Supervisors or to any fund established by these Proffers or by law following the date of approval of

this rezoning, said contributions shall be in those amounts as stated herein. Contributions paid more than one (1) year from the date of approval of the COLONIAL CROSSING rezoning shall be adjusted in accordance with the Urban Consumer Price Index ("CPI-U") published by the United States Department of Labor, calculated from the CPI-U published the January 1<sup>st</sup> following the initial year for which the contributions are paid, subject to a cap of three percent (3%) per year, non-compounded. The contributions set forth in these Proffers shall be deemed to satisfy any impact fee policy that may subsequently be adopted by Fauquier County.

- B. The term "construct" as set forth in these Proffers means to build or post performance bonds to assure the completion of, the applicable road, traffic signal, trail, structure, or facility to a level of completion where it is usable by and open to the public or COLONIAL CROSSING residents as appropriate. Maintenance Bonds may be used to assure completion of final construction details for such roads, traffic signals, trails, structures, or facilities prior to their acceptance for public use by VDOT or the County.

DONALD R. THARPE TRUST  
Owner

Date: 6/4/07

By:   
Donald Tharpe, Authorized Officer

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